

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON HEALTH

Chair: Rep. Della Au Belatti

Vice Chair: Rep. Richard Creagan

Friday, March 27, 2015

9:15 a.m.

Room 329

SUPPORT for HCR 79 – FEDERAL SCHEDULING OF MARIJUANA

Aloha Chair Belatti, Vice Chair Creagan and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HCR 79 requests the Drug Enforcement Administration to initiate rescheduling proceedings to remove marijuana from schedule 1 of the Federal Controlled Substances Act because marijuana does not meet the criteria of a federal Schedule 1 controlled substance.

Community Alliance on Prisons supports this measure. The debate over scheduling of cannabis is ongoing in Congress and the courts.

In Congress...

On March 10, 2015 a bipartisan Senate bill¹, introduced by Sen. Rand Paul (R-Ky) and co-sponsored by Sens. Cory Booker (D-NJ) and Kirsten Gillibrand (D-NY), was introduced that would reschedule cannabis from Schedule I to Schedule II under the Controlled Substances Act (CSA), as well as legalizing the recommendation of medical marijuana by Veterans Affairs doctors and introducing other welcome reforms. The purpose of the bill as stated is *"to extend the principle of federalism to State drug policy, provide access to medical marijuana, and enable research into the medicinal properties of marijuana."*

¹ CARERS bill introduced in Senate, March 10, 2015.

<https://american-safe-access.s3.amazonaws.com/documents/US%20Senate%20MMJ%20March%202015.pdf>

In Courts...

"Judge Kimberly Mueller, the federal magistrate who made history by granting defense requests for a five-day hearing on the constitutionality of the continued inclusion of cannabis in Schedule I of the Controlled Substances Act, was originally scheduled to meet with the parties of US v Schweder et al for a status hearing this week – but has delayed that meeting until April 15th.

The most significant reform would be the removal of herbal cannabis from the ultra-restrictive Schedule I of the CSA and its rescheduling in Schedule II, a category which includes drugs like cocaine and methamphetamine – which are considered substances with a high potential for abuse under the CSA but are also recognized to have medical value when administered under a doctor's supervision. (It should be noted that the Leaf specifically predicted that the federal government would move to reschedule cannabis some time this year.) Cannabis products high in cannabidiol (CBD) and low in THC would be treated even more liberally under the bill, which would specifically exempt medicines containing less than 0.3% THC from the definition of "marihuana" under federal law.

*"We don't want to punish doctors simply because they're trying to help people," said Sen. Paul during a Tuesday press conference announcing the bill."*²

I attended a medical conference several years ago and met Dr. Sunil Aggarwal, M.D., PhD, an expert in the field of cannabis research, whose power point³ went through the history of cannabis scheduling, which has not been based on science, but on politics and prejudice as illustrated by the 1937 Marihuana Tax Act:

- Congressional Record rife with lurid tales of homicidal mania, racial slurs, and fears of miscegenation → enhances threat level of marijuana use in civil society
- William Woodward, MD, JD, Legislative Counsel, American Medical Association; Chair, Council on Scientific Affairs
 - "future investigation may show...substantial medical uses for Cannabis"
- AMA stood virtually alone in their opposition to the bill
 - cannabis not inherently dangerous
 - had already been part of the United States Pharmacopoeia for nearly a century
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² ***Why a Closely Watched Marijuana Case in Federal Court Looks to Be Leaning in the Right Direction - Does marijuana deserve to be Schedule I?*** By Jeremy Daw / The Leaf Online, March 23, 2015.
<http://www.alternet.org/drugs/federal-court-ruling-marijuana-proper-classification-delayed>

³ Aggarwal SK. ***Cannabis: A Commonwealth Medicinal Plant, Long Suppressed, Now at Risk of Monopolization.*** 88 Denver University Law Review (2010), pp 1-12.
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In Dr. Aggarwal's power point presentation, he noted the following statement from The Nederlandse Associatee Voor Legale Cannabis (NCSM):

"The availability of safe cannabis of consistent quality has proven to be crucial to good research, as it opened up the way for long term quantitative studies on cannabis and its constituents on a national level. Currently, a variety of laboratories and research groups cooperate for quality control, fundamental research and clinical development. Cannabis research in The Netherlands is blooming, with a clear focus on scientific outcome, rather than on repression of cannabis use. Under these favorable conditions the NCSM was founded in 2008."

Community Alliance on Prisons supports this resolution that urges the Drug Enforcement Agency to acknowledge the science of cannabis and its many medical applications.

Mahalo for this opportunity to testify.



Hawaii's voice for sensible, compassionate, and just drug policy

COMMITTEE ON HEALTH

Rep. Della Au Belatti, Chair. Rep. Richard P. Creagan, Vice Chair

Friday, March 27, 2015, 9:15 a.m.

Conference Room 329

State Capitol

415 South Beretania Street

Executive Director Rafael Kennedy in Support – HCR79

Aloha Chair Belatti, Vice Chair Creagan, and members of the committee,

This resolution would be a step towards the federal removal of marijuana from the DEA's Schedule I of controlled substances. While this may not effect this change in the federal government's position on marijuana, this is a step that will further underscore the fact that the state of Hawaii has accepted the medical use of marijuana, and may be a signal to the federal government that rescheduling marijuana is a process that is long overdue.

In order to qualify as a Schedule 1 controlled substance, a substance must have no accepted medical use, and Hawaii's medical marijuana program, along with those in 22 other states, shows this to be inaccurate. In a recent committee hearing on SB 189, Senator Green stated that he could no longer refer to marijuana's schedule 1 status, "with a straight face." Rescheduling marijuana would allow a greater degree of regulation for medical marijuana programs, as well as improving the state of research and helping to stabilize the banking sector with regard to medical marijuana programs. This is an important step, and though it must be undertaken by the federal government, I urge the state of Hawaii to take any measures, such as this one, that will help effect this change.

Mahalo for your consideration on this important matter.

Rafael Kennedy
Executive Director,
Drug Policy Forum of Hawaii

The Drug Policy Forum of Hawaii works to educate policymakers and the public about effective ways of addressing drug issues in Hawai‘i with sensible and humane policies that reduce harm, expand treatment options, and adopt evidence-based practices while optimizing the use of scarce resources.

creagan1 - Dannah

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 26, 2015 11:21 AM
To: HLTtestimony
Cc: bacher.robert@gmail.com
Subject: Submitted testimony for HCR79 on Mar 27, 2015 09:15AM

HCR79

Submitted on: 3/26/2015

Testimony for HLT on Mar 27, 2015 09:15AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Bacher	Green Futures	Support	No

Comments: Our state, like many other jurisdictions and studies and even US Health & Human Services patents, have begun to recognize medicinal benefits of cannabis again, as it was previously recognized by US Pharmacopia, British and Jamaican studies. If the Controlled Substances Act is to mean anything, it must appropriated categorize substances according to medicine usefulness, and potential of danger and addiction. Instead of scientifically organizing how we treat different substances, politics have kept people from safer more effective medicine, while encouraging more dangerous and addiction substances like opioids instead.

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Mahalo for this opportunity to testify.



Committee: Committee on Health
Hearing Date/Time: Friday, March 27, 2015, 9:15 a.m.
Place: Conference Room 329
Re: Testimony of the ACLU of Hawaii **in Support of HCR 79 / HR 42**

Dear Chair Belatti and Members of the Committee on Health,

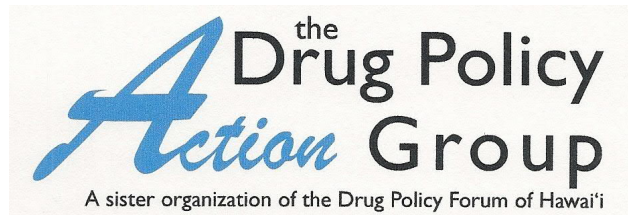
The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in **support of HCR 79 / HR 42**, Requesting the Drug Enforcement Administration to Initiate Rescheduling Proceedings to Remove Marijuana from Schedule I of the Federal Controlled Substances Act Because Marijuana Does Not Meet the Criteria of a Federal Schedule I Controlled Substance.

Enforcement of marijuana prohibition as a part of the failed war on drugs has contributed to overincarceration in the United States, disproportionately affecting people of color. In Hawai‘i, this overincarceration results in the use of problematic mainland for-profit prisons. Rescheduling marijuana to reduce the penalties for related offenses is a step in the right direction toward ending the war on drugs.

Thank you for this opportunity to testify.

Lois K. Perrin
Of Counsel
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.



PO Box 241042, Honolulu, HI 96824 ~ (808) 988-4386

*Dedicated to promoting safe, responsible, and effective drug
policies since 1993*

TO: HOUSE COMMITTEE ON HEALTH

FROM: PAMELA LICHTY, M.P.H., PRESIDENT

DATE: MARCH 27, 2015, ROOM 329, 9:15 A.M.

RE: HCR 79 Requesting The Drug Enforcement Administration To Initiate
Rescheduling Proceedings To Remove Marijuana From Schedule I Of The
Federal Controlled Substances Act Because Marijuana Does Not Meet
The Criteria Of A Federal Schedule I Controlled Substance – **IN SUPPORT**

Good morning Chair Belatti, Vice Chair Creagan, and members of the
Committee. My name is Pam Lichty and I'm President of the Drug Policy Action
Group (DPAG), the government affairs arm of the Drug Policy Forum of Hawaii.

First of all, we want to thank you for hearing this resolution requesting the Drug
Enforcement Administration to remove marijuana or cannabis from Schedule I of
the federal Controlled Substances Act.

The Schedule I designation is inappropriate on its face since 23 states and the
District of Columbia now recognize the legitimate medical use of marijuana. This
recognition by the states began in California in 1996 and each year more
jurisdictions are following suit. Hawaii, as you well know, has had its own Medical
Use of Marijuana program in place since 2000.

Looking at the other drugs, which are placed in Schedule I, we can easily see the
inappropriateness of including marijuana with them: heroin, LSD, ecstasy, peyote
and Quaaludes (which haven't even been manufactured in the U.S. since 1982.)

Moreover, for a substance to be placed in Schedule I it must fit three criteria: 1)
high potential for abuse, 2) no currently accepted medical use in treatment in the
U.S. and 3) lack of accepted safety for use of the drug or other substance under

medical supervision. **The drug must meet all three criteria to be placed in this most restrictive schedule.**

We might differ over our interpretation of the first criterion, given that 38% of Americans, including the last three presidents, have used it, but it is crystal clear that cannabis does not meet the second or third criterion. The lack of “accepted safety under medical use” is particularly absurd since no one as ever died of a marijuana overdose and since a DEA administrative judge famously found in 1988 – more than 25 years ago - that “Marijuana, in its natural form, is one of the safest therapeutically active substances known to man. By any measure of rational analysis marijuana can be safely used within a supervised routine of medical care.”

The DEA in numerous legal challenges has refused to change the Schedule. In short, the designation of marijuana as a Schedule 1 substance has been absurd since its inception, but the states’ activities since 1996 have clearly demonstrated just how inappropriate it is.

Mahalo for scheduling HCR 79 and for giving us the opportunity to testify today. We urge you to pass it out to the Judiciary Committee with a strong recommendation for passage.

creagan1 - Dannah

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 25, 2015 10:49 AM
To: HLTtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HCR79 on Mar 27, 2015 09:15AM*

HCR79

Submitted on: 3/25/2015

Testimony for HLT on Mar 27, 2015 09:15AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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creagan3 - Karina

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 25, 2015 2:47 PM
To: HLTtestimony
Cc: rontthi@gmail.com
Subject: *Submitted testimony for HCR79 on Mar 27, 2015 09:15AM*

HCR79

Submitted on: 3/25/2015

Testimony for HLT on Mar 27, 2015 09:15AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald Taniguchi, Pharm.D.	Individual	Support	No

Comments:

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House Committee on Health

Della Au Belatti, Chair

Richard Creagan, MD, Vice Chair

Re: HR42/HCR79 - Relating to Controlled Substances

Hearing: Friday, March 27, 2015, 9:15 am, Room 329

From: Clifton Otto, MD

Position: **SUPPORT**

Our Congress created the federal Controlled Substances Act (CSA) with the clear intent of allowing states to play a role in the federal scheduling of controlled substances, as evidenced by the fact that all five schedules require a consideration of accepted medical use.

There are at least three ways a drug can have accepted medical use. The first, as in the case of Aspirin, occurs when a drug is grandfathered in based on ubiquitous medical use that pre-dated the creation of the CSA. The second way, that we are most familiar with, is when a drug passes through the FDA drug approval process. And the third way, as in the case of Marijuana, is when a state exercises its authority to accept the medical use of a controlled substance.

The way it's supposed to work is that when a state creates an accepted medical use of a controlled substance that did not previously exist, the state notifies the Drug Enforcement Administration (DEA), by means of the formal petitioning process within the CSA, of the change in medical use that was accepted. The DEA will then, per the administrative process in the CSA, initiate rescheduling proceedings and, with the assistance of the Department of Health and Human Services, decide into which schedule the drug belongs.

If the State wants to fulfill the responsibility that comes with accepting the medical use of Marijuana, then it needs to file a rescheduling petition with the DEA.

From: Cheryl Toyofuku <healthjourney@hawaii.rr.com>
Sent: Friday, March 27, 2015 8:03 PM
To: HLTtestimony
Subject: Opposition to HCR 79: DEA, Controlled Substance, Medical Marijuana

To: Representative Della Belatti and the House Committee on Health
From: Cheryl Toyofuku, Pearl City, HI
Re: HCR 79: DEA, Controlled Substance, Medical Marijuana
Hearing: March 27, 2015 at 9:15am, Room 329

As a mother, grandmother, registered nurse, health advocate and concerned citizen, I am in **opposition to HCR 79** that is requesting the DEA to reschedule proceedings to remove marijuana from Schedule I of the Federal Controlled Substance Act. At the Federal level, marijuana remains classified as a Schedule I substance under the Controlled Substances Act, where Schedule I substances are considered to have a high potential for dependency, making distribution of marijuana a federal offense.

In 2013, the American Medical Association's House of Delegates decided to retain the position that *"cannibis is a dangerous drug and as such is a public health concern"*. According to the Whitehouse website, whitehouse.gov, *"To date...neither the FDA nor the Institute of Medicine have found smoked marijuana to meet the modern standard for safe or effective medicine for any condition."* The AMA's policy requires placing warning on all cannabis products not approved by the US FDA: *"Marijuana has a high potential for abuse. It has no scientifically proven, currently accepted medical use for preventing or treating any disease process in the United States."* (Res 213, I-14). Also, the National Institute on Drug Abuse has released studies showing that the use of marijuana has wide-ranging negative health effects.

Although President Obama told New Yorker Magazine that marijuana is no more harmful than cigarettes or alcohol, in sharp contrast the National Drug Control Policy holds the drug as carcinogenic and causing permanent brain damage in adolescents. As a psychoactive, hallucinogenic drug, it is often used to *"get stoned"* to the point of intoxication, ie, to alter the state of mind and dull the senses and judgement. The immediate and long term consequences to individual users, their families and public safety and health are huge. The scientific literature is clear that marijuana is addictive and that its use significantly impairs bodily and mental functions. The greater harm is the increased addiction to and use of harder drugs, ie, marijuana use and cocaine use are strongly correlated. Its use is also associated with cognitive difficulties, memory loss, immune system deficiencies, birth defects, cancer and heart disease.

I am addressing this with awareness and compassion for the sick and infirmed who feel they need medical marijuana. However the heavy, long term use of marijuana stunts emotional and social development, thus impairing an individual's ability and motivation to move forward in their lives and perhaps seeking alternative therapies that can help their health condition.

Removing marijuana from Schedule I of the Federal Controlled Substance Act is a move in the wrong direction. It should remain classified as a controlled substance simply because illegal drugs such as marijuana are responsible for an enormous share of violence and social decline in our country. An approach to drug use, addiction and crime must be taken seriously and should be based on sound

policy and solid evidence. Hawaii's drug problems must have a strategy that attempts to prevent illegal drug use and reduce the number of drug users. Declassifying marijuana is not a step in that direction.

Please oppose HCR 11.